

Board Meeting, May 4

Urban and Rural Reserves:

Anticipated Assertions & Possible Responses

Intro:

- On May 4, the Board will consider an urban/rural reserves ordinance
- **It is anticipated that this hearing will be contentious.**
- This matter comes before the Board on remand from the court of appeals
- The court denied all challenges except for one—further explanation for the rural reserve designation of Area 9D is needed
 - Area 9D is on the west side of the West Hills, abuts WashCo and extends north from Germantown road past where Skyline runs east/west
- Although the Board has leeway on remand to consider changes to the map, the Board has requested an ordinance limited to resolving the remanded issues
- The proposed ordinance relies on the existing evidentiary record
 - New evidence will not be admitted into the record at this hearing
 - If the Board wants to open the record, the hearing will need to be continued until public notice of this change is published
 - The record is remaining closed at this time because:
 - the court did not identify any issue of conflicting evidence, lack of substantial evidence, or any other evidentiary issue; and
 - the existing evidentiary record is sufficient for purposes of responding to the remanded issues.
- But Note: All interested parties will be afforded the opportunity to testify in support or opposition to the ordinance and lobby for a particular result. They can include demonstrative evidence in their presentation (i.e., bring pictures, etc), it just won't be admitted into the record at this time. They can also refer to the 10,000+ pages of evidence in the existing record.

Anticipated Assertions

1. It is wrong to keep the evidentiary record closed because:

a. Circumstances have changed.

- i. Context: There has been a fair amount of high-density, urban residential development in WashCo adjacent to portions of MultCo's Rural Reserves on the west side of the West Hills
- ii. Response: This is not really a change in circumstance—this development has been anticipated from the start.

b. It makes the Hearing a farce; the outcome is pre-ordained.

- i. Context: Some will assert that testifying without new evidence is hollow and that a closed record is indicative of a pre-ordained outcome
- ii. Response: It is important to recognize where we are in this process. The County made its decisions in 2010 and 2011. Those decisions have largely been upheld. A specific issue has been remanded to the County and the Board is now considering how to resolve that issue.

1. That said, this is the time to convince the Board that it should expand the scope of this action and the Board is open to considering those arguments—including arguments that the record should be re-opened. If convinced of that, the Board will schedule further proceedings.

c. Metro has adopted new evidence that the County must adopt.

- i. Response: [*A purely legal issue; Response may not be necessary, but...*]
 1. That is a legal issue; we believe we are fulfilling our legal obligations.

2. Why are these areas on the west side of the West Hills Rural Reserves?

- a. Response: On the whole, these areas are appropriate for protection of farm and forest industries and for protection of natural landscape features, and, on the whole, are subject to constraints that limit the efficiency of urbanizing these areas such as constraints on efficient public transportation systems, sewer and water facilities and other necessities of economically healthy development such as the limited availability of employment land.

3. But that (Response #2 above) isn't true of my property?

- a. Response: This was not a parcel-by-parcel assessment. The County was required to look at areas of land and that is what we did.

4. [area of land] should be an Urban Reserve?

- a. Response: The County is not in charge of designating Urban Reserves; that is Metro's responsibility and that's not what they determined.

5. Chris James: The problem with this proceeding is that there is no opportunity to address the very substantial issues and problems with this Program

- a. Context: Chris James is the attorney for the federal court litigants. He said this at Metro's hearing; he asserts Constitutional violations as among the problems. This assertion is perplexing given that it is asserted at the Hearing at which precisely these kinds of issues should be raised.
- b. Response: This is the time to raise all issues and concerns and if the time for testimony is not enough, you are invited to submit written testimony.